

NICHOLAS L. TRIANTOS

Order (public reprimand) entered by the Board October 7, 2010.

SUMMARY<sup>1</sup>

The respondent maintained a bank account designated as an IOLTA account. Commencing at least as of 2007 and continuing until July 31, 2008 when the IOLTA account was closed, the respondent:

1. did not hold trust funds separate from the respondent's own property but instead deposited both trust funds and personal or business funds to the IOLTA account and made disbursements from the account for personal or business expenses as well as for client matters, in violation of Mass. R. Prof. C. 1.15(b);
2. did not perform a three-way reconciliation of the IOLTA account at least every sixty days, in violation of Mass. R. Prof. C. 1.15(f)(1)(E);
3. did not maintain a check register for his IOLTA account with a client identifier after every transaction, a list of every transaction, and a running balance, in violation of Mass. R. Prof. C. 1.15(f)(1)(B); and
4. did not keep individual client ledgers for each client matter, in violation of Mass. R. Prof. C. 1.15(f)(1)(C).

In addition to his IOLTA account, the respondent at all relevant times maintained a separate operating account at the same bank. Between April 2 and April 15, 2008, the respondent made a series of deposits to his operating account of personal funds totaling \$4400. The respondent believed, incorrectly, that he had deposited this \$4400 in personal funds to his commingled IOLTA account, rather than to his operating account.

On or about April 16, 2008, the respondent deposited to the IOLTA account \$5500 received from a client that was the defendant in a pending civil lawsuit. Of this sum, \$2000 represented the respondent's fee and \$3500 was to be paid to the plaintiff to settle the litigation. On April 18, 2008, the respondent remitted a check for \$3500 drawn on his IOLTA account to pay the plaintiff in the litigation. This check was not negotiated for several weeks.

Between April 16 and May 5, 2008, the respondent also wrote a series of checks drawn on the IOLTA account for his own personal or business purposes. As a result of the respondent's inadequate record keeping including his mistaken belief that the \$4400 in personal funds had been deposited to the IOLTA account, the total of these personal or business checks was more than the amount of personal funds on deposit in the IOLTA account.

Payment of the checks for personal or business purposes thus drew against the \$3500 due the plaintiff in the federal litigation. The check for \$3500 was presented for payment on May 7, 2008 and returned for insufficient funds. The respondent promptly replaced the dishonored check by wiring \$3500 to the plaintiff from his operating account.

The respondent's negligent misuse of client funds in his IOLTA account violated Mass. R. Prof. C. 1.15(b).

This matter came before the Board on a stipulation of facts and disciplinary violations and a joint recommendation for discipline by public reprimand. On September 13, 2010, the board voted to adopt the parties' stipulation and proposed sanction.

<sup>1</sup> Compiled by the Board of Bar Overseers based on the record of proceedings before the Board.

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